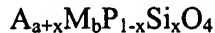


### **REMARKS**

The present Response to Requirement for Election of Species is in response to the Office Action mailed June 23, 2003, Paper No. 4. Claims 1-51 are currently pending in the Application. In this Response, Claim 19 has been amended, and new Claims 52-60 are presented for the Examiner's consideration. Upon entry of the present Response, Claims 1-60 will be pending in the Application.

The present invention is generally directed to electrode active materials the nominal general formula:



wherein

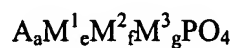
- (a) A is selected from the group consisting of Li, Na, K, and mixtures thereof, and  $0 < a < 1.0$ ; and
- (b) M comprises one or more metals, comprising at least one metal which is capable of oxidation to a higher valence state;
- (c) wherein  $0 < b < 2$ ,  $0 \leq x \leq 1$ , and M, a, b, and x are selected so as to maintain electroneutrality of said compound.

The present invention is also directed to novel electrodes and electrochemical cells utilizing the aforementioned active materials.

In an Office Action mailed June 23, 2003, Paper No. 4, the Examiner issued a two-tier requirement for election of species. In the first tier, an election of species requirement was issued requiring Applicants to elect one of three allegedly patentably distinct inventions for prosecution on the merits in the event any generic claims are finally held not to be allowable.

Currently, the Examiner deems Claims 1-3 and 11 generic. The Examiner has required election of one of the following species.

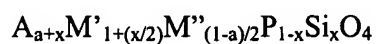
**Species I.** Claims 19-25, 42 and 49, drawn to, among other things, an electrode active material of the formula:



wherein

- (a)  $M^1$  is a +2 oxidation state transition metal, where  $e > 0$ ;
- (b)  $M^2$  is a +2 oxidation state non-transition metal; and
- (c)  $M^3$  is a +3 oxidation state non-transition metal.

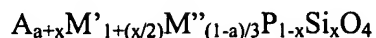
**Species II.** Claims 26-30, 43 and 50 drawn to, among other things, an electrode active material of the formula:



wherein

- (a)  $M'$  comprises one or more +2 oxidation state transition metals; and
- (b)  $M''$  comprises one or more +2 oxidation state non transition metals.

**Species III.** Claims 31-39, 44 and 51 drawn to, among other things, an electrode active material of the formula:



wherein

- (a) M' comprises one or more +2 oxidation state metals, comprising at least one metal which is capable of undergoing oxidation to a higher valence state; and
- (b) M'' comprises one or more +3 oxidation state metals.

The Office Action is silent regarding the subject matter of Claims 4-10, 12-18, 41, and 48. Accordingly, based on the list of species provided by the Examiner, Applicants elect Species I (Claims 19-25, 42 and 49), without traverse.


In the second tier, as best as can be understood from the present Office Action, the Examiner has required that Applicants elect a single species from the Markush group M<sup>I</sup> (namely, the group consisting of Fe, Co, Ni, Ti, V, Cr and Mn), in the event no generic claim directed to Species I is deemed unpatentable over the prior art. Accordingly, Applicants elect the species Fe, without traverse. New Claims 52-60 are directed to Species I, wherein M<sup>I</sup> is Fe.

Should anything further be required, the Examiner is respectfully requested to telephone the undersigned at 702-558-1000 (x1071).

Respectfully submitted,

Dated: July 23, 2003  
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